

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA

Plaintiff,
v.

SCOTT KUPERSMITH

Defendant.

Honorable

Criminal No. 12-375 (KSH)

CONSENT JUDGMENT AND
ORDER OF FORFEITURE

WHEREAS, on or about May 29, 2012, defendant Scott Kupersmith pled guilty pursuant to a plea agreement with the United States to an Information charging him with securities fraud in violation of Title 15, United States Code, Sections 78j(b) and 78ff, and Title 17, Code of Federal Regulations, Section 240.10b-5; and

WHEREAS, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), a person convicted of an offense contrary to Title 15, United States Code, Sections 78j(b) and 78(f)(i) shall forfeit to the United States any property constituting, or derived from, proceeds obtained directly or indirectly, traceable to the commission of the offense; and

WHEREAS the sum of \$1,666,445 is subject to forfeiture by defendant Scott Kupersmith as property constituting, or derived from, proceeds obtained

(2) Agrees to consent promptly upon request to the entry of any orders deemed necessary by the government or the Court to complete the forfeiture and disposition of property;

(3) Waives the requirements of Federal Rules of Criminal Procedure 32.2 and 43(a) regarding notice of forfeiture in the charging instrument, announcement of the forfeiture in the defendant's presence at sentencing, and incorporation of the forfeiture in the Judgment of Conviction;

(4) Acknowledges that he understands that forfeiture of property will be part of the sentence imposed upon him in this case and waives any failure by the Court to advise him of this, pursuant to Federal Rule of Criminal Procedure 11(b)(1)(J);

(5) Waives all constitutional and statutory challenges of any kind to any forfeiture carried out pursuant to this Consent Judgment;

WHEREAS Rule 32.2(c)(1) provides that no ancillary proceeding is required to the extent that the forfeiture consists of a money judgment; and

WHEREAS good and sufficient cause has been shown,

It is hereby **ORDERED, ADJUDGED, AND DECREED:**

THAT, pursuant to Title 18, United States Code, Section 981(a)(1)(c) and Title 28, United States Code, Section 2461(c), defendant Scott Kupersmith shall forfeit to the United States the sum of \$1,666,445; and

IT IS FURTHER ORDERED that a money judgment in the amount of \$1,666,445 shall be entered against defendant Scott Kupersmith; and

IT IS FURTHER ORDERED that the United States District Court shall retain jurisdiction to enforce this Order, and to amend it as necessary, pursuant to Fed. R. Crim. P. 32.2(e); and

IT IS FURTHER ORDERED that pursuant to Rule 32.2(b)(4)(A), this Order of Forfeiture shall become final as to defendant Scott Kupersmith at the time of sentencing, or before sentencing if the defendant consents, and shall be made part of the sentence and included in the judgment; and

IT IS FURTHER ORDERED that the United States may move at any time pursuant to Rule 32.2(e) and Title 21, United States Code, Section 853(p) to amend this Order of Forfeiture to include substitute property having a value not to exceed \$1,666,445 in United States currency to satisfy the forfeiture money judgment in whole or in part.

ORDERED this 29th day of January, 2013.



Honorable Katharine S. Hayden
United States District Judge

The undersigned hereby
consent to the entry and
form of this order:

PAUL J. FISHMAN
United States Attorney



Dated: 1/23/13

By: CHRISTOPHER J. KELLY
Assistant United States Attorney



Dated: 1/18/13

LISA MACK, ESQ.
Attorney for Defendant Scott Kupersmith



Dated: 1/18/13

Defendant Scott Kupersmith